

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0044

**Individual Income Tax
Calendar Years 1996 and 1997**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE(S)

I. Indiana Adjusted Gross Income – Best Information Available

Authority: 45 IAC 6-8.1-5-1 (a); 45 IAC 3.1-1-66; 45 IAC 3.1-1-5; IC 6-3.5-1.1-16

Taxpayer protests the entire audit.

STATEMENT OF FACTS

Taxpayer is a shareholder in an S Corporation that was audited. Because the S Corporation had additional income assessed through a "Best Information Available" audit, those adjustments flowed through to the shareholders as required by 45 IAC 3.1-1-66. The audit assessed state and county income taxes on the estimated distribution of income pursuant to 45 IAC 3.1-1-5 and IC 6-3.5-1.1-16. The taxpayer, an Indiana full-year resident for the years at audit, filed IT-40 returns.

The audit of the corporation was based upon best information available as allowed under IC 6-8.1-5-1 (a) because the taxpayer did not reply to the auditor's request. *The Almanac of Business & Industrial Financial Ratios* (1994) by Leo Troy was used to determine the total revenue for the corporation that flowed through to its shareholders. No records were made available to the auditor.

Taxpayer submitted a protest that was received by the Indiana Department of Revenue on January 18, 2000 that states that (1) he was never contacted by an auditor; (2) the corporation never operated or offered flight instruction or banner towing services; (3) the corporation was formed with the intent to purchase one single engine aircraft and to lease said aircraft; and (4) the "fleet" to which the auditor refers to was owned and operated by another company and not the corporation. Taxpayer further states that these incorrect assumptions of the company's services and asset load directly affect the auditor's equations and figures. In addition, none of the officers or shareholders in the company received any income from the business venture

because the company operated at a loss.

Based upon the letter of protest, the hearing officer forwarded the file to the auditor for resolution. On May 9, 2001 the auditor asked the taxpayer to supply information that would allow a negation or reduction in the audit assessment. The auditor returned the file to the Legal Division on July 3, 2001 without resolution because the taxpayer failed to respond. On July 6, 2001, the hearing officer asked the taxpayer to provide records. Taxpayer states the auditor never contacted him. On July 8, 2002, the hearing officer sent an E-mail to the taxpayer to see where in the protest process we were. No further information has been provided.

On October 7, 2002 a hearing was scheduled for Thursday, October 24, 2002. No one called or appeared for the hearing.

I. Indiana Adjusted Gross Income – Best Information Available

DISCUSSION

Taxpayer is a shareholder in an S Corporation that was audited. Additional income determined in an investigation for the corporation flowed through to the shareholders as required by 45 IAC 3.1-1-66.

In numerous attempts, the Department's auditor and legal representative have asked the taxpayer for information to allow a reduction in the assessment. No detail has been provided. Taxpayer was scheduled for a hearing on October 24, 2002 to which he also did not reply.

In reviewing the audit report and the file, it is noted that the assessment stems from best information available and the taxpayer had numerous opportunities to provide additional information, either to the auditor or to the hearing officer. Taxpayer provided nothing to aid in the resolution of the audit.

FINDING

Taxpayer's protest is denied.